

VZCZCXYZ0000
OO RUEHWEB

DE RUEHUJA #0236/01 0361414
ZNR UUUUU ZZH
O 051414Z FEB 08
FM AMEMBASSY ABUJA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 2019
RUEAWJA/DEPT OF JUSTICE WASHDC
RUEATRS/DEPT OF TREASURY WASHDC
INFO RUEHOS/AMCONSUL LAGOS 8690

UNCLAS ABUJA 000236

SIPDIS

SIPDIS

STATE FOR INL/AAE
JUSTICE FOR OIA, AFMLS, AND NDDS
TREASURY FOR FINCEN
DEA FOR OE, OI AND OC
LAGOS FOR DEA AND FBI

E.O. 12958: N/A

TAGS: [EFIN](#) [SNAR](#) [KTFN](#) [KCRM](#) [NI](#)

SUBJECT: NIGERIA: 2007-2008 INTERNATIONAL NARCOTICS CONTROL STRATEGY
REPORT (INCSR) PART II, MONEY LAUNDERING AND FINANCIAL CRIMES

REF: 07 STATE 138226

¶1. Although the Federal Republic of Nigeria is not an offshore financial center, Nigeria's large economy is a hub for the trafficking narcotics and other contraband. Nigeria is also a center of criminal financial activity, reportedly for the entire continent. Individuals and criminal organizations have taken advantage of the country's location, weak laws, systemic corruption, lack of enforcement, and poor socio-economic conditions to strengthen their ability to perpetrate financial crimes at home and abroad. Nigerian criminal organizations are adept at devising new ways of subverting international and domestic law enforcement efforts and evading detection. Their success in avoiding detection and prosecution has led to an increase in many types of financial crimes, including bank fraud, real estate fraud, and identity theft. In addition, advance fee fraud, also referred to internationally as "419" fraud, in reference to the fraud section in Nigeria's criminal code, is a lucrative financial crime that generates hundreds of millions of illicit dollars annually for criminals. Despite years of government effort to counter rampant crime and corruption, Nigeria continues to be plagued by crime. The Economic and Financial Crimes Commission (EFCC) along with the Independent Corrupt Practices Commission (ICPC) and the improvements in training qualified prosecutors for Nigerian courts yielded some successes in 2006 and 2007.

¶2. In June 2001, the Financial Action Task Force (FATF) placed Nigeria on its list of non-cooperative countries and territories (NCCT). In December 2002, Nigeria enacted two pieces of legislation to remedy the deficiencies. It passed an amendment to the 1995 Money Laundering Act extending the scope of the law to cover the proceeds of all crimes. The Government of Nigeria (GON) also passed an amendment to the 1991 Banking and Other Financial Institutions (BOFI) Act expanding coverage of the law to stock brokerage firms and foreign currency exchange facilities, giving the Central Bank of Nigeria (CBN) greater power to deny bank licenses, and allowing the CBN to freeze suspicious accounts. In 2004, the Economic and Financial Crimes Commission (Establishment) Act, established the Economic and Financial Crimes Commission (EFCC), the body that investigates and prosecutes money laundering and other financial crimes, and coordinates information sharing. The Economic and Financial Crimes Commission Act also criminalizes the financing of terrorism and participation in terrorism. Violation of the Act carries a penalty of up to life imprisonment. In May 2006, the FATF visited Nigeria to conduct an evaluation of the revisions made to the government's AML regime. FATF recognized that the GON had remedied the major deficiencies in its anti-money laundering regime and removed Nigeria from the NCCT list.

¶3. Since its inception in April 2004, the EFCC has had the mandate to investigate and prosecute financial crime. It has recovered or

seized assets from people guilty of fraud both inside and outside of Nigeria, including a syndicate that included highly-placed government officials who were defrauding the Federal Inland Revenue Service (FIRS). Several influential individuals have been arrested and are currently awaiting trial. EFCC members also embarked upon a campaign to identify and prosecute former officials. Some EFCC members have been killed for their efforts to expose and enforce the laws against corruption and financial crime.

14. The National Assembly passed the Money Laundering (Prohibition) Act (2004), which applies to the proceeds of all financial crimes. Nigeria also employs the 1995 Foreign Exchange (Monetary and Miscellaneous Provisions) Act. The legislation gives the CBN greater power to deny bank licenses and freeze suspicious accounts. This legislation also strengthens financial institutions by requiring more stringent identification of accounts, removing a threshold for suspicious transactions, and lengthening the period for retention of records. Money laundering controls apply to banks and other financial institutions, including stock brokerages and currency exchange house, as well as designated non-financial businesses and professions (DNFBPs). These institutions include dealers in jewelry, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets and other businesses that the Federal Ministry of Commerce designates as obliged. The EFCC Act provides safe-harbor provisions to obliged entities. Nigeria has no secrecy laws that prevent the disclosure of client and ownership information by domestic financial services companies to bank regulatory and law enforcement authorities.

15. The Special Control Unit against Money Laundering (SCUML), is a special unit in the Ministry of Commerce which monitors, supervises, and regulates the activities of all DNFBPs. Oversight, however, has reportedly not been very rigorous or effective. Amendments to the 2004 EFCC Act gave the EFCC the authority to investigate and

prosecute money laundering, enlarged the number of EFCC board members, enabled EFCC police members to bear arms, and banned interim court appeals that hinder the trial court process.

16. The Nigerian Financial Intelligence Unit (NFIU, established in 2005), derives its powers from the Money Laundering (Prohibition) Act of 2004 and the Economic and Financial Crimes Commission Act of 2004. Housed within the EFCC, it is the central agency for the collection, analysis and dissemination of information on money laundering and terrorism financing. The NFIU is a significant component of the EFCC, complementing the EFCC's directorate of investigations. It does not carry out its own investigations. Legal provisions give the NFIU power to receive suspicious transaction reports (STRs) submitted by financial institutions and designated non-financial businesses and professions. The NFIU also receives reports involving the transfer to or from a foreign country of funds or securities exceeding \$10,000 in value. All financial institutions and designated non financial institutions are required by law to furnish the NFIU with details of their financial transactions.

17. The NFIU fulfills a crucial role in receiving and analyzing STRs. As a result of the NFIU's activities, banks have improved both their timeliness and quality in filing STRs reported to the NFIU. The NFIU has access to records and databanks of all government and financial institutions, and it has entered into memoranda of understandings (MOUs) on information sharing with several other FIUs. In 2006, the NFIU received 3,772,843 currency transaction reports (CTRs). Out of the 47 cases the NFIU developed, 12 investigations are ongoing, and the NFIU disseminated 18 and placed 10 under monitoring. The NFIU closed seven in-house cases. Because the disseminated cases are still under investigation, no formal feedback came from stakeholders for either 2006 or 2007. There were 73 money laundering convictions from January 2005 through October 2006. The trial court process has improved after several experienced judges received assignments specifically to handle EFCC cases; encouraged, EFCC officials have brought more cases to court. Additional information for 2007 is not available.

18. Due to the activities of the EFCC, the enactment of new laws, and a public enlightenment campaign, crimes such as bank fraud and counterfeiting have been reported and prosecuted, sometimes for the first time. The EFCC is the agency with the most capacity to

effectively investigate and prosecute financial crimes, including money laundering and terrorist financing. The EFCC coordinates agencies' efforts in pursuing financial crime investigations. In addition to the EFCC, the National Drug Law Enforcement Agency (NDLEA), the Independent Corrupt Practices Commission (ICPC), and the Criminal Investigation Department of the Nigeria Police Force (NPF/CID) are empowered to investigate financial crimes. Reportedly, the Nigerian Police Force is incapable of handling financial crimes because of alleged corruption and poor institutional capacity.

¶9. In 2007, the EFCC marked significant successes in combating financial crime. Through EFCC efforts, a former inspector general of police was arrested and prosecuted for financial crimes valued at over \$13 million. The GON seized his assets and froze his bank accounts. Currently serving a prison sentence, he still faces 92 charges of money laundering and official corruption. Five former state governors are under investigation for money laundering. The EFCC is working with the FBI on a case involving a group of money brokers laundering money through banks in the United States. In 2006, the EFCC received a surge of petitions and leads provided by whistleblowers. Reportedly, many of these alleged abuses of office involved politically exposed persons (PEPs) and/or their collaborators. As the period coincided with preparations for the general elections in 2007, some of the investigations politically charged. The Legal and Prosecution Unit, responsible for the prosecution of all cases, is examining 437 of these cases for possible prosecution. The Unit prosecuted several high profile cases involving powerful and well connected persons and their associates.

¶10. The EFCC filed 588 cases between 2006 and mid-2007. In 2007, the Legal Unit had obtained 53 convictions by mid-year. Investigations led to the recovery of approximately 30 Billion Naira (approximately \$259 million). Suspects returned several billion when it became apparent that the Commission was about to expose the abuses. Some governors were arrested for laundering their state government funds. The Executive Chairman, appearing before the Senate to present a report of the Commission's activities, revealed allegations of corrupt practices and abuse of office reportedly associated with 31 out of the 36 then serving Governors. Some of these Governors had a constitutional immunity guaranteed that expired in May 2007. They are now standing trial in various courts for various offenses including money laundering.

¶11. While the NDLEA has the authority to handle narcotics-related cases, it does not have adequate resources to trace, seize, and freeze assets. Cases of this nature are usually referred to the EFCC. Depending on the nature of the case, the tracing, seizing, and freezing of assets may be executed by the EFCC, NDLEA, NPF, or the ICPC. The proceeds from seizures and forfeitures pass to the federal government, and the GON uses a portion of the recovered sums to provide restitution to the victims of the criminal acts. The banking community is cooperating with law enforcement to trace funds and seize or freeze bank accounts. Since its establishment the EFCC has reportedly seized assets worth \$5 billion.

¶12. Section 20 of the 2004 EFCC Act provides for the forfeiture of assets and properties to the federal government after a money laundering conviction. Foreign assets are also subject to forfeiture. The properties subject to forfeiture are set forth in EFCC Act Sections 24-26, and include any real or personal property representing the gross receipts a person obtains directly as a result of the violation of the act, or traceable to such receipts. They also include any property representing the proceeds of an offense under the laws of a foreign country within which the offense or activity would be punishable for more than one year. All means of conveyance, including aircraft, vehicles, or vessels used or intended to be used to transport or facilitate the transportation, sale, receipt, possession or concealment of the economic or financial crimes is likewise subject to forfeiture. Forfeiture is possible only under criminal law. There is no comparable law governing civil forfeiture, but the EFCC has established a committee addressing this deficiency by drafting legislation.

¶13. The EFCC has the authority to prevent the use of charitable and nonprofit entities as money laundering vehicles, although it has not reported any cases involving these entities.

¶14. Nigerian criminals initially made the advance fee fraud scheme infamous. Today, nationals of many African countries and from a variety of countries around the world also perpetrate advance fee fraud. While there are many variations, the main goal of 419 frauds is to deceive victims into the payment of a fee by persuading them that they will receive a very large benefit in return, or by persuading them to pay fees to "rescue" or help a newly-made "friend" in some sort of alleged distress. A majority of these schemes end after the victims have suffered monetary losses, but some have also involved kidnapping, and/or murder. Perpetrators use the internet to target businesses and individuals around the world.

¶15. The Government of Nigeria continued throughout 2007 with its effort to eradicate 419 crimes. GON efforts previously led to the successful prosecution and conviction of a number of them, but the problem is far from over. Following the promulgation of the Advance Fee Fraud Act of 2006 the EFCC held an interactive session with stakeholders. The EFCC also briefed cyber cafe operators, business centers, internet service providers, telecommunication companies and banks on their responsibilities under the new law. One of the requirements is to register their businesses with the EFCC. To keep pace with the sophistication with which the fraudsters operate, the EFCC deployed interception technology to enhance the investigation of crimes particularly those committed through cyberspace. The Advance Fee Fraud Unit burst several employment, credit card, and e-payment scams, shut down several domains and cloned websites, raided residential houses, seized computers, and blocked fraudulent e-mail addresses, telephone lines and faxes associated with cyber crimes. Although the EFCC has tried to combat 419-related cyber crimes, there have been few recorded successes as a result of its cyber crime initiatives.

¶16. The EFCC's success in investigating and prosecuting financial crime, especially high-level corruption, has brought it both the support of the international community and the ire of corrupt officials. In December 2007, the Government of Nigeria reassigned the EFCC Chairman, the country's highest ranking and most publicly visible anti-corruption official, Nuhu Ribadu, to a year-long training course. This reassignment coincides with the high-profile trials of several officials, including seven former governors. Ribadu has served as the face of Nigerian AML/CTF efforts, and his removal could undermine the perception of the GON's commitment to fighting corruption. The reassignment of Ribadu may also impact the NFIU's autonomy and its ability to act independently.

¶17. Nigeria criminalized the financing of terrorism under the Economic and Financial Crimes Commission (Establishment) Act of 2004. The EFCC has authority under the act to identify, freeze, seize, and forfeit terrorist finance-related assets. Nigerian financial institutions periodically receive the UNSCR 1267 Sanctions Committee's consolidated list, but have not yet detected a case of terrorist financing laundered through the banking system.

¶18. Nigeria is a party to the 1988 UN Drug Convention, the UN Convention against Transnational Organized Crime, the UN International Convention for the Suppression of the Financing of Terrorism, and the UN Convention against Corruption. Nigeria has also ratified the African Union Convention on Preventing and Combating Corruption. Nigeria ranks 147 out of 180 countries in Transparency International's 2007 Corruption Perceptions Index.

¶19. The United States and Nigeria have a Mutual Legal Assistance Treaty, which entered into force in January 2003. Nigeria has signed memoranda of understanding with Russia, Iran, India, Pakistan and Uganda to facilitate cooperation in the fight against narcotics trafficking and money laundering. Nigeria has also signed bilateral agreements for exchange of information on money laundering with South Africa, the United Kingdom, and all Commonwealth and Economic Community of West African States countries. The EFCC worked with foreign partners to raid notorious cyber cafes to curtail the activities of the 419 fraudsters. The EFCC collaborated with the United States Postal Services and the UK Serious and Organized Crime Agency (SOCA) to intercept over 15,000 counterfeit checks. A collaboration scheme between the EFCC, the United States, the UK and the Dutch was constituted to more effectively address the problem of international fraud including identity theft and e-marketing fraud.

Nigeria is a member of the Intergovernmental Task Force against Money Laundering in West Africa (GIABA), a FATF-style regional body. GIABA's Director General holds the Directorship General. The NFIU is a member of the Egmont Group.

¶20. The Government of Nigeria continued to pursue money laundering both within and outside the country in 2007. Nigeria should continue to pursue its anti-corruption program and support both the ICPC and EFCC in their mandates to investigate and prosecute corrupt government officials and individuals. Nigeria should take steps to ensure the autonomy and independence of those entities. The Special Control Unit Against Money Laundering (SCUML) should strengthen its supervision of designated non-financial businesses and professions by transferring supervisory authority from the Ministry of Commerce. The GON should continue to engage with the FATF and other relevant international organizations to identify and eliminate remaining anti-money laundering deficiencies. Nigeria should ensure that the Police Force has the capacity to function as an investigative partner in financial crime cases, as well as work to eradicate any corruption that might exist within that and other law enforcement bodies. Nigeria should continue to support the EFCC's efforts, including drafting a law for civil forfeiture provisions to the AML/CTF framework, and pursuing those who commit financial crime, regardless of political status. Nigeria should continue towards implementation of a comprehensive AML regime that promotes respect the rule of law; willingly shares information with foreign regulatory and law enforcement agencies; is capable of thwarting money laundering and terrorist financing; and maintains compliance with all relevant international standards.

SANDERS